ANDOVER CONSERVATION COMMISSION MEETING MINUTES MAY 21, 2013

Town of Andover 36 Bartlet Street 3rd Floor Conference Room 7:45pm

Conservation Members in Attendance:

Chairman Donald Cooper, Vice Chairman Michael Walsh, Commissioner Jon Honea, Commissioner Fran Fink, Commissioner Alix Driscoll, Commissioner Floyd Greenwood and Commissioner Kevin Porter. Staff members present were Robert Douglas, Director of Conservation and Linda Cleary, Conservation Agent.

SCHEDULED ITEMS:

44 Holt Road

Present in Interest: Edward Williams and Keith Saxon

Staff Recommendation: Approve as Neg.3.

Public Meeting on the Request for Determination of Applicability filed by Edward and Jeryl Williams to determine if the "after the fact" installation of a paver patio 30' x 25' is subject to the Massachusetts Wetlands Protection Act.

Agent Cleary presented this to the Commission. The filing is under the WPA only. A waiver is requested for the tree line.

Chairman Cooper asked for a Motion. Commissioner Honea made a Motion to grant the waiver and approve as Neg.3, it was seconded by Commissioner Driscoll and unanimously approved.

397 Lowell Street

Present in Interest: Keith Saxon

Staff Recommendation: Approve as Neg.3.

Public Meeting on the Request for Determination of Applicability filed by Town of Andover – DPW to determine if the proposed reclaiming and resurfacing of 20 various streets within the Town of Andover is subject to the Massachusetts Wetlands Protection Act.

Mr. Douglas presented this to the Commission. This is a standard town project with all of the work done within the footprint of the road. Silt fencing will be placed under the grates of the catch basins until the project is completed.

Keith Saxon asked that filter fabric be placed as well as the blocking of the drain while the pavement is done and that "no dumping" markers be placed on the new grates. Staff agreed to add the placement of filter fabric to the Determination and will make the suggestion regarding the "no dumping" markers.

Chairman Cooper asked for a Motion. Vice Chairman Walsh made a Motion to Approve as Neg.3; it was seconded by Commissioner Driscoll and unanimously approved.

I-93 Southbound and River Road Exchange

Present in Interest: Tom Conneely, Andrew Schenker and Scott Fisher

Staff Recommendation: Approve.

Public Meeting on the Request for Determination of Applicability filed by Mass DOT to determine of the proposed treatment of invasive species within the interchange loop at I-93 SB and River Road Exchange is subject to the Massachusetts Wetlands Protection Act.

Mr. Douglas presented this to the Commission. This is a maintenance facility project with vegetation management before planting this fall. The spraying of the herbicide will be done in accordance with state requirements. The majority of the work is outside our jurisdiction. Staff will monitor the site.

Chairman Cooper asked for a Motion. Vice Chairman Walsh made a Motion to Approve; it was seconded by Commissioner Fink and unanimously approved.

Federal Street

Present in Interest: Andrea Steele, and Pat Levesque

Staff Recommendation: Approve.

Public Meeting on the Request for Determination of Applicability filed by Columbia Gas of Massachusetts to determine if the proposed installation of an extension of an existing natural gas distribution/service line located on Federal Street is subject to the Massachusetts Wetlands Protection Act.

Mr. Douglas presented this to the Commission. The gas line will extend further down Federal Street to 800 Federal Street. All work will be entirely within the roadway. Excavation for the day will be filled in every night. Sedimentation controls will be along the catch basins and the granite curbing along the roadway will act at erosion controls as well.

Chairman Cooper asked for a Motion. Commissioner Honea made a Motion to Approve; it was seconded by Commissioner Driscoll and unanimously approved.

25 Belknap Drive

Present in Interest: William Penny

Staff Recommendation: Approve.

Public Meeting on the Request for Determination of Applicability filed by William C. Penny to determine if the proposed construction of a 12' x 12' one story addition at 25 Belknap Drive is subject to the Massachusetts Wetlands Protection Act.

Mr. Douglas presented this to the Commission. The addition will be within the "indent" of the existing house and will be constructed on 3 sona tubes, which will be hand dug. Staff visited the property due to clearing activity where an old, dead white pine was taken down. Mr. Penny presented the proposed project to the Commission.

Commissioner Driscoll questioned if the wetland line is correct. The line is conservative on the plan provided and staff agreed to mark the 25 foot no-disturb area.

Commissioner Fink was concerned with the resuming of removal of bittersweet that is not mentioned in the application before us.

Chairman Cooper instructed staff to include in the Determination "the removal of bittersweet outside the 25 foot no-disturb area is allowed, however any removal within the 25 foot no-disturb area is subject to notice to staff and staff approval.

Chairman Cooper asked for a Motion. Commissioner Honea made a Motion to Approve; it was seconded by Commissioner Driscoll and unanimously approved.

4 Pine Cone Lane

Present in Interest: Keith Saxon, and Paul Bergman

Staff Recommendation: Approve as Neg.2, Neg.3, Neg.5 and Neg.6

Public Meeting on the Request for Determination of Applicability filed by Eddie Hoskins to determine if the proposed repair and upgrade of existing septic system at 4 Pine Cone Lane is subject to the Massachusetts Wetlands Protection Act.

Agent Cleary presented this to the Commission. The filing is under the WPA only for the repair/upgrade of an existing subsurface sewage disposal system within the Riverfront Area of the Shawsheen River. The proposed work is exempt from the Riverfront portion of the regulations pursuant to 310 CMR(6)(c), onsite sewage disposal system in existence on August 7, 1996.

Chairman Cooper asked for a Motion. Commissioner Honea made a Motion to Approve as Neg.2, Neg.3, Neg.5 and Neg. 6; it was seconded by Commissioner Driscoll and unanimously approved.

365 & 367 Lowell Street

Present in Interest: Sean Szekely *Staff Recommendation: Approve.*

Public Meeting on the Request for Determination of Applicability filed by Sean Szekely to determine if the proposed removal or filling of an in ground pool and loam and seed at 365 and 367 Lowell Street is subject to the Massachusetts Wetlands Protection Act.

Mr. Douglas presented this to the Commission. The property is within the Watershed Overlay Protection District of Haggett's Pond. The existing home is to be torn down and the pool filled in. The pool is within the 100 foot buffer zone. Work has taken place prior to any action by the Commission.

Mr. Szekely stated that machinery has been working on the property and pushed loam into the area in question. The disturbed area will be returned to lawn with no expansion.

Commissioner Fink stated that the NOI was withdrawn for the proposed house and now there is work taking place in the buffer zone for Lot A. She also requested a NOI be filed for the new house and the work on Lot A.

Chairman Cooper stated the violation should be documented in the RDA and the Applicant has stated he will reloam and seed within this growing season.

Chairman Cooper asked for a Motion. Commissioner Fink made a Motion to find a Positive Determination and require the Applicant to file a NOI for work on Lot A, it was seconded by Commissioner Driscoll and failed by a 3-2 vote with Commissioner Porter abstaining.

Commissioner Honea made a Motion to Approve with the addition of the violation, loam and reseed, fine if further violations and markers installed at the limit of work or the 50 foot mark. The Motion was seconded by Vice Chairman Walsh and approved by a 4-2 vote.

12 Foster's Pond Road

Present in Interest: Allen Barber

Staff Recommendation: Approve as Pos.5 and Neg.3.

Continued Public Meeting on the Request for Determination of Applicability filed by Allen and Virginia Barber to determine if the proposed demolition and replacement of existing garage,

removal and replacement of pavement for parking at 12 Foster's Pond Road is subject to the Massachusetts Wetlands Protection Act.

Agent Cleary presented this to the Commission. This was continued from April 16, 2013 for payment of By-Law fees, submittal of waivers and a revised plan. The By-Law fees, waivers for relief from the 25 foot and 50 foot BVW offsets and relief for erosion control, and contour changes have been noted on the revised plan received. The proposed garage is now 101 feet from the resource area.

Commissioner Fink does not agree with waiver of Erosion Controls as the catch basins should be protected.

Chairman Cooper asked for a Motion. Commissioner Driscoll made a Motion to Approve as Pos.5 and Neg.3 with standard erosion control condition; it was seconded by Commissioner Greenwood and unanimously approved.

7 Penbrook Circle

Present in Interest: Jack Sullivan

Staff Recommendation: Close Public Hearing.

Public Hearing on a Notice of Intent filed by Aaron and Jennifer Berger under the Massachusetts Wetlands Protection Act and/or the Andover Wetlands Protection By-Law for the proposed installation of an inground pool, patio, fencing and associated site grading at 7 Penbrook Circle.

Mr. Douglas presented this to the Commission. The pool will be placed on a lawned area and meets our setback requirements. The project is 75 feet from the closest point of the resource area. Recommend decision include removal of compost pile at the edge of wetland. Commissioner Greenwood recommended the standard drywell condition be placed in the Order of Conditions.

Jack Sullivan stated the Applicant is undecided as to what system will be used. Staff agreed to include drywell condition in the Order of Conditions.

Commissioner Fink noted the fencing is within a water easement and may not be allowed. Mr. Sullivan agreed to move the fence out of the water easement. The shed will be moved closer to the pool as shown on a revised plan submitted at the hearing.

Chairman Cooper asked for a Motion. Commissioner Greenwood made a Motion to close the public hearing and issue the Order of Conditions on June 4, 2013 meeting; it was seconded by Commissioner Driscoll and unanimously approved.

81 Bellevue Road

Present in Interest: Leah Basbanes and Andrew Caffrey

Staff Recommendation: Continue.

Continued Public Hearing on a Notice of Intent filed by Gary Litchfield, C&L Homes under the Massachusetts Wetlands Protection Act and/or Andover Wetlands Protection By-Law for proposed construction of a single family dwelling at 81 Bellevue Road.

Agent Cleary presented this to the Commission. This was continued to allow staff to review the flagging with Leah Basbanes and for the Commission to attend a site visit. The wetland line is agreed upon by staff and Leah Basbane. The property is located in Haggetts Pond Watershed Protection Overlay District and does not comply with the setbacks for demolition of existing structure and construction of a new dwelling. A narrative requesting waivers for By-Law setbacks, reasoning to permit new construction and provision of removal of some fill and enhanced buffer zone plantings together with the revised plan was submitted after the submittal deadline and has not been reviewed by staff. It is staff's understanding that the revised plan depicts approximately 30 feet of buffer that will be provided, which doe s not meet the minimal requirements in the WPOD.

Leah Basbane presented the changes to the Commission. The existing lot and building are historically disturbed. The cesspool will be removed and the new septic will be further away from the wetland, fill will be removed from the edge of the wetland and the 30 foot buffer will be reestablished with natural vegetation and post and rail fencing. The new structure meets the 50 foot setback with roof and runoff infiltration.

Commissioner Fink requested soils test data and infiltration systems calculations.

Chairman Cooper asked for a Motion. Vice Chairman Walsh made a Motion to continue to June 4, 2013 at 8:15pm, it was seconded by Commissioner Driscoll and unanimously approved.

6 Prospect Road

Present in Interest: Joan Newhouse, Doug Ahern and Bill MacLeod

Staff Recommendation: Close Public Hearing.

Continued Public Hearing on a Notice of Intent filed by Jeffco, Inc., under the Massachusetts Wetlands Protection Act and/or the Andover Wetlands Protection By-Law for proposed demolition of an existing dwelling and construction of a new, single family dwelling at 6 Prospect Road.

Agent Cleary presented this to the Commission. This was continued from April 16, 2013 for purposes of a site visit and continued from April 30, 2013 for Vice Chairman Walsh to

"Mullenize" himself. The filing is under the WPA and By-Law. It is staff's recommendation that more lawn area can be given as mitigation for inability to meet the 25 foot non-disturb and the 50 foot no-build. Waivers for both have been requested.

Bill MacLeod presented the revised plan to the Commission. The deck has been reduced to 8 feet and the garage has been reduced to a 2 car garage rather than a 3 car garage. House will be further away from the wetlands. The no-disturb zone will be 25 feet from the wetland line in the northeast corner of the lot. Haybales will be parallel to the house 21 feet from the back of the house. This is the only area where the 25 foot no disturb zone is not met. Decades of debris are to be removed from the wetland area. Cesspool and leach field to be removed and house will be connected to Town sewer.

Commissioner Fink agrees with waiver for house setback because of the improvements to the lot, but disagrees with the 25 foot no-disturb area waiver.

Commissioner Porter believes the 25 foot no-disturb in the small area will be very difficult to enforce and is in support of the waiver.

Vice Chairman Walsh pointed out that the amount of area given back far exceeds the small area requested in the waiver.

Chairman Cooper stated that there needs to be a reason to waive the setback.

Chairman Cooper asked for a Motion. Commissioner Driscoll made a Motion to close the public hearing; it was seconded by Commissioner Honea and unanimously approved.

2 Hitchcock Farm Road

Present in Interest: Karim Berty, Michael Radner and Scott Henderson

Staff Recommendation: Continue for revised plan.

Continued Public Hearing on a Notice of Intent filed by Karim Berty under the Massachusetts Wetlands Protection Act and/or the Andover Wetlands Protection By-Law for the proposed installation of an inground pool, several patios, cabana and expansion of lawn area with retaining walls at 2 Hitchcock Farm Road.

Agent Cleary presented this to the Commission. This was continued from April 16, 2013 for staff to meet with wetland scientist to review flagging changes on site, for Applicant to put waiver requests in writing and for a site visit on April 21, 2013. This was continued from April 30, 2013 at the Applicant's request and for Vice Chairman Walsh to "Mullenize" himself. The filing is under the WPA only. No setbacks under our policies are being met. Revised plans were submitted, however the proposed work is still in the existing tree line, there is significant grading in the existing tree line, lawn are proposed within the existing tree line and with more insignificant changes. The closest work to the wetland is 5 feet from the wetland line. Michael Radner presented the revised plan to the Commission. There was no formal request for waivers submitted. Stormwater concerns were addressed and there is no vernal pool. The

wetland flags have been moved closer to the house. There is a 15% reduction of square footing in the project as a result of the revisions and the area being disturbed within the 25 foot nodisturb area is reduced by half. Retaining walls have been moved and deleted from the project. The play space is 10.8 feet from the 25 foot non-disturb instead of 4 feet.

Scott Henderson informed the Commission that soils testing can be conducted at the beginning of the project. The stormwater management is the same and the rain garden will remain.

Commissioner Fink believed there are more than 500 square feet of structures being proposed for this project, according to the By-Law. She also stated that the pool could be moved towards the Haggett's Pond Road side of the house.

Commissioner Greenwood believes the project remains too big for the space available.

Commissioner Porter agreed that the project is too large and there is too much work taking place within the buffer zone.

The Applicant inquired if the Commission would accept the revised plan with the proposed lawn area removed. The Commission would not and the Applicant requested the Commission close the public hearing.

Chairman Cooper asked for a Motion. Commissioner Honea made a Motion to close the public hearing; it was seconded by Commissioner Driscoll and unanimously approved.

174 Holt Road

Present in Interest: Bill MacLeod, Bill Foster, Ken St.Pierre and Mary Ann MarshallStaff Recommendation: Close the Public Hearing and issue Order of Conditions upon receipt of plan showing NDZ markers.

Continued Public Hearing on a Notice of Intent filed by Mary A. Marshall under the Massachusetts Wetlands Protection Act and/or the Andover Wetlands Protection By-Law for the proposed demolition of an existing deck and porch and construction of an addition to a single family dwelling at 174 Holt Road.

Agent Cleary presented this to the Commission. This was continued from April 16, 2013 for staff to meet with Norse Environmental and agree on the wetland boundary. This was continued from April 30, 2013 for Vice Chairman Walsh to "Mullenize" himself and for Applicant to place non-disturb bounds on the BVW line. The filing is under the WPA only. The revised plan submitted shows the addition does not encroach into the 50 foot no-build, but the Applicant is asking for consideration to a non-disturb area where the lawn exceeded the BVW boundary. Chairman Cooper stated that the mitigation from the other lot may be taken into consideration for acceptance of this waiver.

Chairman Cooper asked for a Motion. Commissioner Driscoll made a Motion to close the public hearing; it was seconded by Commissioner Honea and unanimously approved.

83 Porter Road

Present in Interest: Bill MacLeod, Steven Pustell *Staff Recommendation: Close the Public Hearing.*

Continued Public Hearing on a Notice of Intent filed by Porter Road Nominee Trust under the Massachusetts Wetlands Protection Act and/or the Andover Wetlands Protection By-Law for proposed construction of a single family dwelling with appurtenant driveway, lot grading and utilities at 83 Porter Road.

Mr. Douglas presented the Order of Conditions prepared by Jeff Bridge. Commissioner Fink "Mullenized" herself. Jeff Bridge recommends approval based on the Applicant agreeing to preserve the tree line on a large portion of the project as mitigation for not meeting all the required setbacks. Chairman Cooper agreed with this assumption.

Commissioner Driscoll inquired if the garage could be removed or reduced to a 1 car garage.

Chairman Cooper asked for a Motion. Vice Chairman Walsh made a Motion to close the public hearing; it was seconded by Commissioner Honea and unanimously approved.

ACTION ITEMS:

52 William Street

Staff Recommendation: Approve.

Vote to find that the application has expired and the prerequisite of new information has not been received in more than a two year period.

Commissioner Porter made a Motion to find the application expired; it was seconded by Commissioner Honea.

Minutes

Approval of Minutes from meeting of April 30, 2013.

Vice Chairman Walsh made a Motion to Approve; it was seconded by Commissioner Honea and unanimously approved.

221 Highland Road

Present in Interest: Carol McGravey

Staff Recommendation: Approve daily fines.

Issuance of an Enforcement Order. Town Counsel reviewed and agrees with the issuance of the fourth Enforcement Order. Staff recommended daily fines of \$200 per day beginning May 9, 2013, the date of the violation.

Commissioner Honea made a Motion to issue the Enforcement Order with daily fines of \$200 per day beginning May 9, 2013; it was seconded by Commissioner Porter and unanimously approved.

CONSENT AGENDA:

12 Olde Berry Road

Issuance of a Certificate of Compliance.

19 Moraine Street

Issuance of a Satisfactory Completion of Work Certificate.

Vice Chairman Walsh made a Motion to Approve the Consent Agenda; it was seconded by Commissioner Greenwood and unanimously approved.

DISCUSSION ITEMS THAT MAY REQUIRE A VOTE:

Overseer Nomination

Commissioner Porter submitted Overseer Nominations to be submitted to Selectmen for approval.

Commissioner Porter made a Motion to accept the overseer nominations; it was seconded by Commissioner Driscoll and unanimously approved.

Public Relations Volunteer

Commissioner Porter requested a position be created and Ellen Townsend to accept the position as Public Relations Volunteer for the Conservation Commission. She will report to Kevin Porter.

Commissioner Porter made a Motion to create the position of Public Relations Volunteer and Ellen Townsend to fill said position; it was seconded by Commission Greenwood and unanimously approved.

Eagle Scout Project

Present in Interest: David Kessler and Bob DeCelle

David Kessler presented his Eagle Scout Project and provided a handout to the Commission. He will be placing a secure gate at Serio's Grove and creating a parking lot off Lowell Junction Road for the trail leading to the reservation. Eagle Scout David Kessler also requested matching funds from the Conservation Department if available.

Commissioner Driscoll made a Motion to Approve the project; it was seconded by Commissioner Greenwood and unanimously approved.

2 Possum Hollow Road

Present in Interest: Bill MacLeod

Discussion and update on Enforcement Order and consideration of lifting the Enforcement Order. Staff and Jeff Bridge visited the site and did soil probes and found the soil NOT to be wetland soils. Norse Environmental did not find any wetlands on site. Staff and Mr. Bridge studied the canopy and ground cover, which indicated the area was a wetland, however the soil was "high and bright", and an upland soil. Staff recommends lifting the Enforcement Order. Commissioner Fink requested a site visit prior to lifting the Enforcement Order. Tabled to June 4, 2013.

Summer Street and Tewksbury Street

Letter of Notification regarding replacement and maintenance of natural gas utility lines by Columbia Gas at Summer Street and Tewksbury Street.

This is an exempt activity.

SunGen Property – 1350 South Street

Present in Interest: Carol McGravey and Mark Johnson

Acceptance of Conservation and Management Permit. A letter via email should be sent to David Paulson at Natural Heritage stating the conditions are met to the satisfaction of the Commission. Commissioner Greenwood made a Motion that the Commission is satisfied with the terms of the permit and authorizes Robert Douglas to email David Paulson at Natural Heritage; it was seconded by Commissioner Driscoll and unanimously approved.

The next meeting will be held June 4, 2013 at 7:45pm.

The meeting was adjourned at 10:29pm by Motion of Vice Chairman Walsh, seconded by Commissioner Honea and unanimously approved.

Respectfully submitted by,

Lynn Viselli, Recording Secretary